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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,369	06/19/2001	Istvan Szabo	2466-97	1073

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EXAMINER

LEVITAN, DMITRY

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/883,369

Applicant(s)

SZABO, ISTVAN

Examiner

Dmitry Levitan

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Specification

1. References mentioned in the disclosure are not considered. To be considered, the references should be submitted in an IDS form with appropriate copies.

Claim Objections

2. Claims 1-14, 19 and 20 are objected to because of the following informalities: Claims 1, 8, 19 and 20 recite the limitation "the read" in respective lines 9, 10, 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 4, 11 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4, 11 and 18 limitation "packet spacing" is unclear, because it is not understood what packet spacing means in the context of the claim: spacing between following packets or spacing between elements inside a packet.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Computer program is not directed to a process, machine, manufacture or composition of matter. (See MPEP 2106).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-4, 8-11 and 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Wan (US 6,529,475).

Wan teaches a method, a system and computer program product of determining whether to accept an incoming IP telephone call over IP network (network on Fig. 1 and 2, compatible with H.323 standard including Internet and VoIP 2:17-48), comprising:

- a. Receiving an incoming call (inherently part of gatekeepers 100 on Fig. 1 and 2, because all call from terminals 104 are directed to a gatekeeper 100 2:40-57),
- b. Reading at least one current performance indicator value provided by the monitoring mechanism for monitoring the performance quality of plurality of ongoing calls for a number of lost packets (reading the congestion information at server 112 on

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Fig. 2, received from monitors 110 8:21-37, monitoring a plurality of ongoing calls 8:8-12, wherein the RTCP packets are monitored for packet loss rate 8:12-20), and

c. Determining if the incoming call is to be accepted or rejected based on the read at least one performance indicator value (inherently part of the system, because gatekeepers are responsible for the new calls admission 2:49-63 and call admission control is recommended for VoIP calls based on the results of the congestion analysis 6:45-7:11).

In addition, regarding claim 8, Wan teaches means for receiving an incoming call (inherently a portion of gateway 100, because receiving incoming calls is essential for the system operation, Fig. 1 and 2:40-57), means for reading indicator value (inherently portion of server 112, because reading the results from monitors 111 is essential for the system operation 8:30-33) and means for determining to admit the call (inherently a portion of server 112, because server 112 determines to admit or reject a new call 8:45-55).

In addition, regarding claim 15, Wan teaches an output signal indicating the result of admission determining (a signal from server 112 to the gatekeepers 100 shown as step 206 on Fig. 3 and 8:45-55).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 5-7, 12-14 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wan in view of Grabelsky (US 6,678,250).

Wan substantially teaches the limitations of the claims (see the rejection above), including determining the incoming call admission based on the network performance and utilizing thresholds for the bandwidth management 2:57-62).

Wan does not teach determining the network performance, based on comparing the indicator value with a threshold and forming a function on at least one indicator value and compare it with predetermined threshold.

Grabelsky teaches determining the network performance, based on comparing the indicator value with a threshold (comparing performance parameters like packet loss, round trip delay and jitter with alarm thresholds and determining the network performance based on the comparison result by generating or not generating an alarm as shown on Fig. 6, steps 150 and 152 and 13:17-25) and forming a function on at least one indicator value and compare it with predetermined threshold (determining the round trip delay 8:7-23 and comparing the result with a threshold 13:17-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add determining the network performance, based on comparing the indicator value with a threshold and forming a function on at least one indicator value and compare it with predetermined threshold of Grabelsky to the system of Wan to improve the system call admission by using the comparison of monitored parameters with the predetermined thresholds making the determination of the network performance measurable and consistent.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Levitan whose telephone number is (571) 272-3093. The examiner can normally be reached on 8:30 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'DL' followed by a stylized name.

Dmitry Levitan
Patent Examiner.
09/20/05